

I urge adoption of the amendment and passage of the bill.

MULTI-STATE CONSERVATION GRANT PROGRAM

Mr. BAUCUS. Mr. President, as you know H.R. 3671 establishes a new Multi-State Conservation Grant program. This program requires the International Association of Fish and Wildlife Agencies, representing State fish and wildlife agencies, to submit a list to the Secretary of the Interior of recommendation projects eligible for funding under this program prior to October 1 of each year. It is my understanding that the International submitted a list to the Secretary of the Interior prior to October 1 of this year for consideration. Senator SMITH, is it your understanding that the list should be considered submitted in accordance with the provisions of this bill?

Mr. SMITH of New Hampshire. Yes, it is. I do not believe that the grant recipients, many of whom are States, should be penalized because we were unable to pass a bill prior to October 1.

Mr. BAUCUS. The multi-state grant program also requires the International to consult with the various non-governmental organizations and interests involved in this program in preparing this list. It is my understanding that this provision should ensure that these groups are involved both in preparing the request for grant proposals and in evaluating them. Is this also the view of the Chairman?

Mr. SMITH of New Hampshire. Yes, it is. This bill requires that the various interests involved in the Sport Fish and Wildlife Restoration programs be fully and meaningfully consulted in the process, as indicated by the Senator. This should be carefully adhered to in the development of future recommendations.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill, as amended, be read the third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4312) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 3671), as amended, was read the third time and passed.

The title was amended so as to read:

An Act to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, to commemorate the centennial of the establishment of the first national wildlife refuge in the United States on March 14, 1903, and for other purposes.

MAKING CERTAIN CORRECTIONS IN COPYRIGHT LAW

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5107, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5107) to make certain corrections in copyright law.

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, with the imminent passage of the work made for hire legislation today, I believe a few comments are in order. Last year a technical amendment was included in the Intellectual Property and Communications Omnibus Reform Act of 1999 which added sound recordings to the list of works eligible for, or considered as having, the status of works made for hire under the Copyright Act. Works made within the scope of employment or large collaborative works such as motion pictures are most often accorded the status of works made for hire, and the copyright for those works resides in the employer or the corporation doing the hiring, such as the movie studio. The status of sound recordings had been in some doubt because sound recordings did not obtain the status of copyrighted works until relatively recently, and, when added to the list of copyrightable works was not added to the list of works made for hire.

When the technical amendment was raised for consideration in the conference, our research indicated that the practice of the Copyright Office has uniformly been to register sound recordings as works made for hire. The technical amendment therefore seemed a reasonable codification of the ongoing practice at the Copyright Office, and was adopted.

Soon thereafter, however, it became clear that while the technical amendment aligned the code with long-time Copyright Office practice, it was not uncontroversial. Indeed many recording artists had believed that the work-for-hire clauses of their contracts were unenforceable because contrary to the copyright code: i.e., sound recordings are not listed as works made for hire. They view their contracts as operating as assignments or transfers of copyright. This distinction is important because under work-for-hire, the copyright is owned by the record company for the life of the copyright and the artists' rights are extinguished; under a transfer or assignment, the artist may recapture his or her copyright after 35 years and then either renegotiate more favorable terms with the same company or sell the remaining copyright to another label on more favorable terms. The basic premise of this recapture is that the initial assignment of copyright might not fully reward the unproven artist who is an unknown quantity in a risky business.

Once the artist's commercial value is better proven an opportunity is given the artist to reap the rewards of his or her creations that have stood the test of time. That the assumptions of the artists and labels about the status of these works have been diametrically opposed might not have appeared until 35 years after the 1978 effective act of the current Copyright Act, but for this technical amendment.

What ought the status of sound recordings be then? Sound recordings can be something of a hybrid art form lying on a continuum between the individual author writing a song or book and the motion picture where possibly hundreds of employees collaborate on the final work. Sound recordings can be more like the former or the latter, depending on the circumstances. Because the facts can vary so widely—some albums are primarily the product of the producer, some of one artist, some of a group, many have hired musicians or technicians who contribute but do so as part of their normal employment, some recordings are compilations of smaller recordings—it is not clear what general rule would be either most fair to all concerned or would most encourage the continued creativity of recording artists. Since it may take some time, and will require the input of all the affected parties, it seems reasonable at this time to undo last years' technical amendment without prejudice to either side in case litigation should arise later, while we explore whether a more comprehensive rule can be crafted. That is why we have made this change today, containing in the legislative language the congressional intent that neither enactment prejudice any future litigation.

It is my hope that the dialogue on this issue is beginning, rather than ending, with this legislation. I think it is important to avoid costly litigation if possible. And I believe it of paramount importance that artists are fairly compensated for the work they do. Without the creativity of the artist, the record companies would have nothing to market, and the audience would have nothing to enjoy. For the sake of the future of music, I hope that using new technologies, artists and audience can begin having a closer relationship, where artists are encouraged to stretch themselves creatively and fans are enabled to enjoy artists' work more fully. I think a focused conversation on the relative roles of artists and label, as well as the artist's role in controlling their work in traditional and new media, can hasten that day. If the legislative roundabout on the work-for-hire issue concluded today can serve as such a beginning, then it has served a useful purpose.

I commend this legislation to my colleagues. At this time I also wish to thank my colleagues in the House and Senate who have supported this legislation, and the recording artists and labels who have worked together on this legislation and who will begin the task

of exploring what more comprehensive settlement we might reach with regard to the status of sound recordings under the copyright law, which will allow them to continue their creative works.

Mr. LEAHY. Mr. President, more than a week ago I came to the floor to be sure the record was clear that all Democrats had cleared for final passage H.R. 5107, the Work for Hire and Copyright Corrections Act of 2000. I urged the Senate to take up H.R. 5107 without further unnecessary delay. I am glad that the majority has finally decided that action on this consensus bill is appropriate. I still do not know what caused the unexplained 2-week delay on the Republican side.

Representatives BERMAN and COBLE deserve credit, along with the interested parties, for working out a consensus solution in this legislation. The purpose of this bill is to restore the status quo ante, as it existed before November 29, 1999 regarding whether a sound recording can qualify as a "work made for hire" under the second part of the definition of that term in section 101 of the Copyright Act, and to do so in a manner that does not prejudice any person or entity that might have interests concerning this question. The House held an oversight hearing to explore this matter earlier this year and originated this legislation. This bill restores the law to the same place it was before the enactment of section 1101(d) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law Number 106-113, so that neither side is prejudiced by what was enacted at the end of 1999 or by what is being enacted now. This bill does not express or imply any view as to the proper interpretation of the work made for hire definition before November 29, 1999. Thus, neither the enactment of section 1101(d) nor this bill's deletion of that language are to be considered in any way or otherwise given any effect by a court or the Copyright Office when interpreting the work made for hire definition.

I congratulate Congressmen BERMAN and COBLE on final passage of this measure.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5107) was read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar:

Nos. 715 and 716. I finally ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF DEFENSE

Robert N. Shamansky, of Ohio, to be a Member of the National Security Education Board.

Robert B. Pirie, Jr., of Maryland, to be Under Secretary of the Navy.

Mr. MURKOWSKI. Those confirmed are Robert Shamansky, to be a member of the National Security Education Board, and Robert Pirie to be Under Secretary of the Navy. I wish them congratulations.

DIRECTING THE RETURN OF CERTAIN TREATIES TO THE PRESIDENT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 267) directing the return of certain treaties to the President.

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 4313

Mr. MURKOWSKI. Senator HELMS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for Mr. HELMS, proposes an amendment numbered 4313.

The amendment is as follows:

(Purpose: To remove from the list of treaties required to be returned to the President a mutual legal assistance treaty between the United States and Nigeria)

On page 5, strike lines 7 through 11.

On page 5, lines 12, strike "(18)" and insert "(17)".

Mr. MURKOWSKI. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4313) was agreed to.

Mr. MURKOWSKI. I ask unanimous consent the resolution, as amended, be agreed to, the motion to reconsider be laid upon the table, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 267), as amended, was agreed to, as follows:

[The resolution will be printed in a future edition of the RECORD.]

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 106-49

Mr. MURKOWSKI. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following convention transmitted to the Senate on October 12, 2000, by the President of the United States: International Convention for Suppression of Financing Terrorism (Treaty Document No. 106-49).

Further, I ask unanimous consent that the convention be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on December 9, 1999, and signed on behalf of the United States of America on January 10, 2000. The report of the Department of State with respect to the Convention is also transmitted for the information of the Senate.

In recent years, the United States has increasingly focused world attention on the importance of combating terrorist financing as a means of choking off the resources that fuel international terrorism. While international terrorists do not generally seek financial gain as an end, they actively solicit and raise money and other resources to attract and retain adherents and to support their presence and activities both in the United States and abroad. The present Convention is aimed at cutting off the sustenance that these groups need to operate. This Convention provides, for the first time, an obligation that States Parties criminalize such conduct and establishes an international legal framework for cooperation among States Parties directed toward prevention of such financing and ensuring the prosecution and punishment of offenders, wherever found.

Article 2 of the Convention states that any person commits an offense within the meaning of the Convention "if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out"